

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 420 – SB 371

May 2, 2017

SUMMARY OF ORIGINAL BILL: Deletes all language of the existing Uniform Disposition of Unclaimed (Personal) Property Act (Tenn. Code Ann. § 66-29-1) and replaces it with the Uniform Unclaimed Property Act (the Act). Excludes foreign transactions from the application of the Act. Authorizes the Treasurer to promulgate rules to carry out this Act. Specifies when certain types of properties are considered abandoned. Sets a general abandonment period of three years for all other property. Authorizes methods in which the Treasurer may take custody of such property. Requires notice be given to property owners prior to the Treasurer taking custody. Authorizes the Treasurer to sell the property after a three year period; but prohibits the sale of military medals.

Requires reports of abandoned property to be submitted to the Treasurer electronically. Changes, from May 1 of each year to November 1 of each year, the date by which holders of abandoned property must report to the Treasurer. Requires property held during 2016 to be reported by May 1, 2017 and property held in 2017 to be reported by November 1, 2018.

Requires funds received under this act to be deposited into the General Fund; however a fund must be maintained sufficient to pay claims and administrative costs associated with the Act. Authorizes local governments to request that funds be remitted on their behalf after a period of 18 months. Authorizes the Treasurer to deduct an amount of funds sufficient to pay administrative costs prior to depositing funds in the General Fund.

Decreases, from ten to five, the number of years the Treasurer may maintain an action or proceeding to enforce payment or recovery of property after a holder files a report or gives notice to the Treasurer of a dispute regarding the property under certain circumstances.

Prohibits the Treasurer from selling a security within three years of receiving the security. If such security is sold prior to six years following the date it is received by the Treasurer, and a valid claim is made for that property, the Treasurer is required to replace the security or give to the claimant the market value of that security at the time of the claim plus dividends, interest, and other increments.

Authorizes the Treasurer to review the records of a putative holder of property. Authorizes a putative holder of property to request an informal conference with the Treasurer following a receipt of determination. Authorizes such holder to seek relief through judicial review. Authorizes the Treasurer to commence action in Davidson County Chancery Court to enforce a determination that a holder must deliver property. Authorizes the Treasurer to issue a penalty against a holder who fails to report or deliver property.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$79,400,000/FY17-18
Exceeds \$13,000,000/Each Year FY19-20 through FY22-23
\$9,000,000/FY23-24 and Subsequent Years

Increase State Revenue – \$80,900,000/FY18-19

Increase State Expenditures –
Exceeds \$155,000/FY17-18 and Subsequent Years

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue – Exceeds \$100,000

Other Commerce Impact — Businesses may experience an increase in expenditures related to holding property for longer periods of time as a result of this bill. Any such impact on business expenditures is dependent on multiple unknown factors and cannot be reasonably determined.

SUMMARY OF AMENDMENTS (005449, 008348): Rewrites language in the original bill specifying that the Treasurer may promulgate rules pursuant to the Uniform Administrative Procedures Act. Requires the Treasurer to sell or liquidate a security no sooner than eight months but no later than one year after receiving the security and giving the owner notice. Deletes the proposed Tenn. Code Ann. § 66-29-143 that required if a security is sold prior to six years following the date it is received by the Treasurer, and a valid claim is made for that property, the Treasurer is required to replace the security or give to the claimant the market value of the security at the time of the claim plus dividends, interest, and other increments.

Clarifies that the Treasurer is authorized to deliver certain property directly to an agency, local government, public institution of higher education, or local education agency. Designates Tenn. Code Ann. § 66-29-143 as reserved.

Amendment 008348 declares legislative intent that the amount of unclaimed property revenue reversion in excess of the amount of unclaimed property revenue reverted to the General Fund for FY15-16 be deposited into a reserve account for the unclaimed property program for the purpose of funding the program during the transition period for a future change in the holder reporting deadline.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease State Revenue – \$71,400,000/FY17-18

\$9,000,000/FY19-20 and Subsequent Years

Increase State Revenue – \$88,900,000/FY18-19

Other Fiscal Impact – To the extent collections in any given fiscal year exceed the amount that was reverted to the General Fund for FY15-16, there will be a decrease in state revenue to the General Fund and a corresponding increase in state revenue to the Department of Treasury. The timing and precise amount of such impact cannot be reasonably determined.

Assumptions for the bill as amended:

- Due to reporting due dates being changed to November 1, 2018 for all property held in 2017, it is assumed property holders will not report abandoned property held in 2017 until FY18-19.
- There will be no reporting deadline in FY17-18.
- Certain properties that would have otherwise been reported to the Treasurer in FY17-18 will not be reported until FY18-19.
- Based on information provided by the Department of Treasury (Treasury), the one-time decrease in state revenue is estimated to be \$62,400,000 in FY17-18.
- There will be a corresponding one-time increase in state revenue of \$62,400,000 in FY18-19 for property that would have otherwise been reported in FY17-18. In addition, there will be a one-time decrease in state revenue in FY18-19 of \$31,200,000 due to the changing of the reporting date in FY18-19 from May 1 to November 1.
- The total net impact in FY18-19 will be a one-time increase in state revenue of \$31,200,000 (\$62,400,000 - \$31,200,000).
- In FY19-20 and subsequent years, there will be an increase in state revenue equal to half of what would have been collected under current law and a corresponding decrease in state revenue equal to half of what would have been collected under current law due to the change in the reporting date. The net impact in FY19-20 and a subsequent years is estimated to be not significant.
- Currently Tenn. Code Ann. § 66-29-121(b) requires a sum sufficient to be appropriated from the General Fund for administrative costs and claims exceeding collections in any fiscal year.
- The Treasurer will continue to be authorized under the proposed legislation to determine that costs exceed revenue which would result in a required appropriation from the General Fund.
- Specifying that an amount, in excess of the amount of unclaimed property revenue reverted to the General Fund for FY15-16, be deposited into a reserve account to fund the program during the transition phase of the proposed deadline changes could result in

a greater amount being withheld from the General Fund than the Treasurer would have otherwise deemed necessary in FY17-18 which would have been paid through normal withholdings and additional appropriations from the General Fund.

- Because the legislation specifies that this funding shall be used to fund the program during the transition period, it is reasonably assumed that any remaining funding will be deposited back into the General Fund in FY18-19 following the new November deadline in 2018. Any net impact on General Fund revenue over the two year period is not significant.
- Under current law, Tenn. Code Ann §§ 66-29-104 and 66-29-105, unclaimed property held by banking or financial institutions and insurance corporations are presumed abandoned five years after they become due. The proposed legislation will reduce that time period to three years.
- Based on information provided by Treasury, there will be a one-time increase in state revenue estimated to be \$66,700,000 in FY18-19 from decreasing the abandonment time period threshold from five years to three years for these properties.
- Decreasing, from ten to five years, the look back period that the Treasurer may enforce a payment or recovery of a property will limit which payments and properties the Treasurer is able to recover.
- Based on information provided by Treasury, the average annual total recovered from 2012 through 2016 that would not be recovered under a five year look back period rather than a ten year period was approximately \$9,000,000. This recurring decrease in state revenue of \$9,000,000 will begin in FY17-18.
- The total decrease in state revenue in FY17-18 is estimated to be \$71,400,000 (\$62,400,000 + \$9,000,000).
- The total net increase in state revenue in FY18-19 is estimated to be \$88,900,000 (\$31,200,000 + \$66,700,000 - \$9,000,000)
- The recurring decrease in state revenue beginning in FY19-20 is estimated to be \$9,000,000.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENTS:

Other Commerce Impact — Businesses may experience an increase in expenditures related to holding property for longer periods of time as a result of this bill. Any such impact on business expenditures is dependent on multiple unknown factors and cannot be reasonably determined.

Assumption for the bill as amended:

- Businesses may experience an increase in expenditures related to holding property for longer periods of time as a result of this bill. Any such impact on business expenditures is dependent on multiple unknown factors and cannot be reasonably determined.
- Any impact on jobs in Tennessee will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee" followed by a small, stylized monogram or initials "RNC".

Krista M. Lee, Executive Director

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